

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ERNESTO SANTIAGO #90304038)
P.O. BOX 8000)
BRADFORD, PA 16701)
)
Plaintiff,) Civil Action No. 05-153E
)
v.) JUDGE McLAUGHLIN
) MAGISTRATE JUDGE BAXTER
JAMES F. SHERMAN WARDEN & BOP STAFF)
P.O. BOX 5000) ELECTRONICALLY FILED
BRADFORD, PA 16701,)
)
Defendants.)

**DEFENDANTS' MOTION FOR AN ENLARGEMENT OF TIME
TO FILE A RESPONSIVE PLEADING**

AND NOW, comes the Defendants, James F. Sherman Warden and BOP staff (hereinafter referred to as "Defendants"), by their attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Paul E. Skirtich, Assistant United States Attorney for said District, and pursuant to Rule 6(b), file this Motion for an Enlargement of Time of Thirty (30) Days to File a Responsive Pleading. In further support, Defendants aver:

1. Plaintiff *pro se* filed a case sounding in violation of his constitutional rights against the Warden of the Federal Correctional Institute at McKean, Pennsylvania, and other unnamed members of the Bureau of Prisons (BOP) staff when legal mail was opened out of his presence, and legal documents were illegally confiscated from his person. See Plaintiff's Complaint, para. 5, 23, 25, 26.

2. On September 28, 2005, the United States Attorney in this district was served with a copy of the summons and the Complaint; a responsive pleading should have been filed by November 28, 2005.

3. Due to Defendants' failure to correctly calendar the answer date, no responsive pleading was filed by the above date. Defendants aver their error was excusable neglect.

4. Defendants request this Court grant them additional time, thirty (30) days from the date the proposed Order is signed, to file a potentially dispositive pleading.

5. Plaintiff is entitled to the orderly development of his case but will not suffer prejudice from this brief delay.

6. Due to Plaintiff's *pro se* status, his position as to this Motion was not secured, but presumably, Plaintiff would oppose this Motion.

WHEREFORE, based upon the above, Defendants ask this Court to grant their Motion for an enlargement of time of thirty (30) days to file a potentially dispositive pleading.

Respectfully submitted,

MARY BETH BUCHANAN
UNITED STATES ATTORNEY

s/Paul E. Skirtich

PAUL E. SKIRTICH
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendants' Motion for an Enlargement of Time to File a Responsive Pleading was electronically filed and/or served by first-class mail, postage-prepaid, on this 7th day of December, 2005, to the following:

Ernesto Santiago
Plaintiff *Pro Se*
Reg. No. 90304-038
FCI McKean
Post Office Box 8000
Bradford, PA 16701

s/Paul E. Skirtich
PAUL E. SKIRTICH
Assistant U.S. Attorney